

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

Bassey J. Udofot, Complainant v. Kaman Sciences Corporation,
Respondent; 8 U.S.C. 1324b Proceeding; Case No. 90200104.

ORDER OF DISMISSAL-SETTLED

E. MILTON FROSBURG, Administrative Law Judge

Appearances: **BASSEY J. UDOFOT**, Complainant
GLENN M. MESSEMER, Esquire for Respondent.

Procedural Background:

Bassey J. Udofot, Complainant, filed a Complaint against Respondent, Kaman Sciences Corporation, on March 13, 1990. The Complaint alleged a violation of the Immigration Reform and Control Act of 1986, 8 U.S.C. 1324b, due to Respondent's alleged discriminatory refusal to hire Complainant because of his citizenship status.

Included with the Complaint were the following documents:

a. Mr. Udofot's Declaration of Intending Citizenship, filed August 14, 1989;

b. A Charge Form for Unfair Immigration Related Employment Practices, with a statement by Mr. Udofot dated August 10, 1989;

c. A letter from Diana Shuck, Employment Manager of Respondent corporation, to Complainant, rejecting his application for employment, and dated January 24, 1989; and

d. A letter from Bruce S. Friedman, Esquire, Office of Special Counsel for Immigration Related Unfair Employment Practices, to Complainant, indicating that OSC would not bring a complaint of citizenship discrimination before an administrative law judge, based on Complainant's charge.

On March 19, 1990, the Office of the Chief Administrative Hearing Officer issued a Notice of Hearing on Complaint Regarding Unfair Immigration Related Employment Practices, assigning me

as the Administrative Law Judge in this case and advising the parties of the hearing to be held in or around Denver, Colorado, on a date to be determined.

On March 30, 1990, Respondent, through counsel, filed a Motion to Dismiss the Complaint, alleging untimely filing of the Complaint.

On April 6, 1990, Complaint filed a motion in opposition, setting forth the reason for his late filing of the Complaint. On April 17, 1990, I issued my Order Denying Respondent's Motion to Dismiss.

Respondent's Answer to Complaint was filed on May 1, 1990, setting forth a Special Defense that Complainant was rejected for employment because he did not meet the necessary qualifications for the position for which he interviewed, and that Respondent corporation inadvertently sent the wrong form letter to Complainant. Respondent explained that the rejection letter stated that another applicant had been hired, when in fact, the position had been eliminated. Respondent again moved to dismiss for failure to state a cause of action.

Complainant responded to the Answer in his May 8, 1990, motion in opposition, stating that Respondent never indicated in its position advertisement that U.S. citizenship was a requisite for employment, and that the corporation sent a rejection letter indicating that the position was filled.

On June 15, 1990, a Pre-Hearing Conference was held in Denver, Colorado, during which the parties indicated that a settlement of the matter appeared likely, and that the agreement would encompass both the IRCA matter before this Court, and the corresponding EEOC action.

On July 25, 1990 I received a Stipulation of Dismissal executed on July 17, 1990 by Bassey J. Udofot and on July 20, 1990 by Glenn M. Messemer, Secretary of Respondent corporation, requesting my dismissal of this action with prejudice, based upon the General Release executed on July 17, 1990 by Bassey Johnson Udofot. The terms of the release indicate that Kaman Sciences Corporation will pay the amount of \$3,000.00 to Bassey Udofot, who will then release Kaman Sciences Corporation from all actions in connection with the present IRCA case, and also with respect to Charge Number 320891855, filed with the EEOC.

Implicit in the judicial response to a request for dismissal is the determination by the judge that it is in the public interest to issue an order of dismissal. I conclude that an order of dismissal is appropriate as being in the public interest in this IRCA case.

Accordingly,

1. The hearing to be scheduled in or around Denver, Colorado, is cancelled.

2. This proceeding is dismissed and settled.

IT IS SO ORDERED: This 26th day of July, 1990, at San Diego, California.

E. MILTON FROSBURG
Administrative Law Judge